

COMMENTS OF

FPL ENERGY, LLC
&
LONG ISLAND OFFSHORE WIND PARK, LLC

on the

Notice of Intent to Prepare an Environmental Impact Statement (EIS)
for the Proposed Long Island Offshore Wind Park (LIEWP) Development

August 21, 2006

FPL Energy, LLC and Long Island Offshore Wind Park, LLC (hereinafter collectively referred to as “FPL Energy”) hereby provides comments in response to the Notice of intent to prepare an Environmental Impact Statement (EIS) for the proposed Long Island Offshore Wind Park development, published in the Federal Register on June 19, 2006.¹

FPL Energy is currently the largest owner and operator of wind power generation in the world. Attainment of this market position reflects the desire – and the collective will – of our various stakeholders in both the public and private sectors to make available, at commercially reasonable prices, electricity from an innovative technology that does not consume fossil fuels and is virtually pollution-free.

The strength and security of the U.S. electric generation fleet lies in its diversity. FPL Energy is pleased to be a participant in what it expects will be the first commercial offshore wind energy facility in the United States. The Long Island Offshore Wind Park (LIEWP) represents an opportunity to help meet the energy needs of Long Island, as well as to begin to augment the US energy infrastructure with another clean, renewable, and locally sited source of electric power.

The Minerals Management Service (MMS) has stated that the “Foundation Principles” of their programmatic EIS development process include increasing sources and supplies of energy, encouraging innovative technologies, and simplifying permitting in an environmentally safe manner.² MMS has also described these principles as their “Main Goals.”³ FPL Energy agrees with the above principles and requests that MMS apply them to the LIEWP EIS as follows:

¹ 71 FR 35293

² Transcript of MMS Programmatic EIS Scoping Hearing, Melville, NY held on May 24, 2006, p.6.

³ *MMS Scoping Meeting Introductory Presentation*, Internet, http://ocsenergy.anl.gov/documents/docs/MMS_Intro_for_scoping_05_19_2006.pdf, p.14

EXPEDITE THE LONG ISLAND OFFSHORE WIND PARK

In general, it is the policy of this Administration that executive departments and agencies... shall take appropriate actions, to the extent consistent with applicable law, to expedite projects that will increase the production, transmission, or conservation of energy.⁴

In Executive Order 13212, the President of the United States directed federal agencies to “expedite” projects such as the Long Island Offshore Wind Park. These agencies were also ordered to “expedite their review of permits or take other actions as necessary to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections.” Finally, the Executive Order requires an Interagency Task Force “to monitor and assist the agencies in their efforts to expedite their review of permits or similar actions, as necessary, to accelerate the completion of energy-related projects, increase energy production and conservation, and improve transmission of energy.”

The word “expedite” was used by the President in the title as well as in all three substantive sections of the Executive Order. We join with the President and all commenters who encourage MMS to move the offshore wind permitting process forward with all deliberate speed.

FPL Energy is pleased MMS’s efforts to assume responsibility for a new regulatory sector. MMS is unquestionably doing everything it can to assume the regulation of offshore renewable energy in a manner consistent with US policy.

However, regarding the LIOWP EIS, FPL Energy is very concerned about requirements calling for years of *additional* radar or other pre-construction avian monitoring. Such requirements could hinder the permitting process, and will not provide the MMS with any incremental increase in outcome-determinative data. We are particularly concerned about this since FPL Energy has gathered a substantial amount of radar information. This considerable investment in data collection has already produced a significant avian data resource.

Similarly, overly expansive geologic testing and survey requirements may also result in unnecessary pre-construction delays and expense. MMS is obligated to avoid those situations where the overall costs of obtaining relevant adverse impact data are “exorbitant” or the means to obtain it are not known.⁵

FPL Energy is concerned that issues such as those listed above would individually and collectively serve to unnecessarily frustrate the clear intent of Executive Order 13212, MMS’s stated goals, and the express will of the Congress.⁶

⁴ President George W. Bush, Executive Order 13212 – Actions to Expedite Energy-Related Projects, 66 FR 28357, May 22, 2001.

⁵ 40 CFR 1502.22(b)

⁶ The Energy Policy Act, P.L.109-58, Sec. 211, reads as follows: “It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of

SIMPLIFY THE PROCESS

The offshore wind energy business is still in its infancy. FPL Energy is concerned that overapplication of government regulations will delay the LIOWP and unduly discourage investment in an industry that lags behind that of Europe. FPL Energy recommends that MMS:

- Use the extensive range of existing environmental studies.
- Take advantage of and use the comprehensive scoping document already prepared by FPL Energy and submitted to MMS.
- Emphasize realism, and the commercial limits of the LIOWP project when making requests for information from the project applicant.
- Limit the scope of alternative sites to a reasonable number of sites as well as to a reasonable geographic range.
- Avoid critical delays by coordinating with other federal agencies as early as possible. Delays in this new business can be very costly. For example, costs for turbines and steel have risen 10-25% since project conception. Additional significant delays could add another 20-30% to projected costs.
- Consistent with Executive Order 13212, FPL Energy requests that the Interagency Task Force assist MMS to avoid the imposition of unduly conservative or burdensome requirements into the permitting process.

ENCOURAGE THIS INNOVATIVE TECHNOLOGY

NEPA's explicit statement of policies calls for the federal government 'to use all practical means and measures ... to create and maintain conditions under which man and nature can exist in productive harmony....'⁷

Offshore wind energy is an innovative technology that by definition has less historical operational data than the more traditional onshore technologies. MMS should “ensure

this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.”

⁷ 42 USC 4331(a), as quoted by the Council on Environmental Quality, “Council on Environmental Quality Guidance on NEPA Analyses for Transboundary Impacts,” (1997).

that problems are identified early and properly studied, that issues of little significance do not consume time and effort, that the draft EIS is thorough and balanced....”⁸

We encourage MMS to continue to recognize, as it develops the LIOWP EIS, that the development of U.S. energy is “a high national priority,”⁹ and that Congress, via the Savings Provision of Section 388 in the Energy Policy Act, allowed for existing proposed projects such as the development of the LIOWP to proceed apace, notwithstanding the Act’s requirement that MMS establish a new regulatory regime for OCS leases.¹⁰

CONCLUSION

FPL Energy encourages a thorough review of the environmental impacts of the LIOWP, but cautions against excessive data gathering, review, and study of alternatives merely for their own sake.

For many years, lead agencies drafting Environmental Impact Statements dutifully “considered but eliminated” wind energy as an alternative electrical power generation system. Now that clean, renewable, commercial grade wind energy is finally proposed as the main event, it’s time to step up and build this environmentally superior form of energy for the Long Island marketplace.

⁸ A. Alan Hill, Chairman, Council on Environmental Quality, *Guidance Regarding NEPA Regulations*, 48 FR 34263 (1983). Cf. 40 CFR §§1501.1(d), and 1501.7(a)(3).

⁹ MMS, Internet, <http://www.mms.gov/2005EnergyPolicyAct.htm>

¹⁰ Energy Policy Act, Sec. 388(d)